



FISCAL MEMORANDUM

HB 1215 - SB 1339

February 19, 2023

SUMMARY OF BILL AS AMENDED (003881): Prohibits a managed care organization (MCO) that contracts with the Division of TennCare (Division) to provide medical assistance from providing reimbursement or coverage for a medical procedure if the performance or administration of the procedure is for the purpose of enabling a person to identify with, or live as, a purported identity inconsistent with the person's sex, or treating purported discomfort or distress from a discordance between a person's sex and asserted identity. Prohibits the Division from contracting with any MCO to provide medical assistance if the MCO provides reimbursement or coverage for such medical procedures through: (1) a private health insurance program regulated by the state; (2) a state or local insurance program in this state or another state; or (3) any other program for insurance or medical assistance regulated or administered by another state.

Requires the Division to revise or amend all necessary contracts within 30 days of the effective date of the legislation to ensure compliance. Requires an MCO that is in violation to come into compliance no later than 90 days after the effective date of the proposed legislation, and provide documentation of the compliance to the Division within 120 days.

Authorizes the Department of Commerce and Insurance (DCI) to periodically review each MCO to ensure compliance. Requires the Division, upon being notified by the DCI, to immediately provide notice of any finding of noncompliance to an MCO. Grants an MCO the ability to contest a finding and request a contested case hearing. States that an MCO that violates the proposed legislation is no longer eligible to contract with the Division to provide medical assistance.

FISCAL IMPACT OF BILL AS AMENDED:

Other Fiscal Impact – The proposed legislation may result in changes to contract structures and negotiated prices with the TennCare program which would result in an increase in state expenditures. Any such increase is dependent on multiple unknown variables and cannot be reasonably determined.

Assumptions for the bill as amended:

- The Division of TennCare can monitor compliance with MCO contracts and make necessary amendments to such contracts utilizing existing resources.

- Based on information provided by the Division, MCOs do not currently provide coverage for the medical procedures prohibited by the proposed legislation for plans offered by the Division.
- The proposed legislation could result in MCOs who have contracts in other states that provide coverage for such prohibited medical procedures being ineligible to continue contracting with TennCare. It is not possible to estimate with any reasonable certainty how many, if any, of the Division's MCOs would become ineligible as a result of the proposed legislation; however, to the extent the Division is limited in negotiating contracts with MCOs that meet the requirements of the proposed legislation, there could be an increase in cost of services provided by the Division.
- All amendments to contracts with MCOs must be approved by the federal Centers for Medicare & Medicaid Services (CMS). To the extent CMS does not approve the contract changes required by the proposed legislation, TennCare would be unable to deliver services under the MCO model and would likely be forced into a fee-for-service model.
- The DCI can review the compliance of MCOs and report to the Division utilizing existing personnel and resources.

IMPACT TO COMMERCE OF BILL AS AMENDED:

NOT SIGNIFICANT

Assumption:

- Any impact on commerce and jobs in Tennessee is estimated to be not significant.

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.



Krista Lee Carsner, Executive Director

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